



State of Texas  
House of Representatives  
Austin

MBJ

Hugo Berlanga

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February 8, 1993

FEB 17 93

FILE #

~~18964-93~~

I.D.# 18969

Committees:  
Calendars, Chairman  
Ways & Means  
Public Education  
Redistricting  
Legislative Budget Board

Opinion Committee

The Honorable Dan Morales  
Attorney General  
State of Texas  
Supreme Court Building  
Austin, Texas 78711-2548

RQ-501

Dear Dan:

A controversy exists as to whether ad valorem tax receipts have been erroneously withheld from Corpus Christi Reinvestment Zone No. 1 and paid to the Nueces County Education District. The issue involves the following questions raised by the factual situation set forth below:

1. Does Senate Bill 351 (Laws 1991, 72nd Legislature, Regular Session, Ch. 20), exempt County Education Districts from the capture of incremental tax revenues by the preexisting reinvestment zone created under the Texas Tax Increment Financing Act?
2. If so, does it unconstitutionally impair contractual obligations of a city which pledged reinvestment zone revenues as security for certificates of obligation?

In 1981, the Texas Legislature enacted the Texas Tax Increment Financing Act as Article 1066e of Texas Civil Statutes, which is currently codified as Chapter 311, Texas Tax Code (hereinafter the "Act").

In 1982, the City of Corpus Christi created "Reinvestment Zone Number 1, City of Corpus Christi, Texas" (the "Zone"). A history of the zone is recited in (1) the attached Exhibit A, the Original Petition in the bond validation lawsuit styled Ex Parte City of Corpus Christi, Texas, No. 88-4142-A, 28th District Court, Nueces County, Texas (the "Original Petition") at pp. 8-19 as supplemented by the Supplemental Original Petition in said suit (the "Supplemental Petition"), and (2) the attached Exhibit B, the Record of Proceedings Relating To \$10,430,000 Combination Tax and Tax Increment Revenue Certificates of Obligation (Tax Increment Financing Zone Project) Series 1988 (the "Record") at part 7, pp. 15-17.

Pursuant to the Act, the City entered into contracts with other taxing units within which the Zone was located, including the Corpus Christi Independent School District (the "CCISD"), regarding

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the allocation of property taxes produced from the tax increments. CCISD is one of five independent school districts within the Corpus Christi city limits, but is the only school district with territory in the Zone.

In March 1988, the City approved a lease with the Texas State Aquarium Association by which the Association conveyed a completed Aquarium building and land to City for \$10,000,000 with a lease back to the Association (see pp. 19-21 of the Original Petition).

To finance the Aquarium project and certain improvements to the Corpus Christi Museum, both of which are located within the Zone, the City authorized and issued \$10,430,000 in securities described in Exhibit B. The City pledged to bond holders, as security, increment revenues of the zone as well as ad valorem taxes. The tax increment revenues were to be the first pledge with ad valorem tax being secondary. A judgement was entered in favor of the City in its bond validation suit (Exhibit A, part 18), and the securities were approved by the Attorney General (Exhibit A, part 15). Monies from the securities were used to purchase the completed aquarium building and land, and the Association is presently operating the Aquarium in accordance with the Aquarium Lease.

In 1991, the Texas Legislature passed Senate Bill 351 (Laws 1991, 72nd Legislature, Regular Session, Ch. 20) aimed at the equalizing funding for education. Senate Bill 351 created County Education Districts, including one in Nueces County (the "CED"), as new taxing units with the purpose of levying a portion of school property taxes.

Section 2 of SB 351 amended Chapter 20 of the Education Code to empower CEDs to levy taxes (Sec. 20.945) and to prohibit component school districts from levying that portion of their former taxing authority exercised by the CED (Sec. 20.947).

Exercising the taxing authority formerly exercised by CCISD, the CED has collected (through the Nueces County Tax Assessor Collector, who collects taxes for various entities pursuant to interlocal agreements) \$100,300 for 1991 taxes which, if collected by CCISD, would have been paid to the Zone as a tax increment. Thus, the CED's interpretation of SB 351 would deprive the Zone of that amount in 1991, and can be expected to deprive the Zone of a similar amount in 1992.

Your prompt consideration of the above question would be greatly appreciated. If you need additional information, please do not hesitate to call.

Sincerely,



Hugo Benlanga  
State Representative